

ELEMENT SEVEN

MONITOR RECIPIENTS FOR COMPLIANCE

(29 CFR 37.51 – 37.54)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(ii). The State is required to establish procedures to monitor periodically all aspects of the recipient's compliance with WIA Section 188 and 29 CFR Part 37.

The State/ESD EO Officer of the Administrative Services Division is responsible for monitoring the WDCs on a periodic basis in order to assess their compliance with the nondiscrimination and EO provisions of WIA Section 188 and 29 CFR Part 37. The State/ESD EO Officer provide training and technical assistance to the local EO Officers regarding monitoring activities. The State/ESD EO Officer reviews the effectiveness of local tools as part of its monitoring EO compliance of WIA Title I federally funded programs and activities.

The WIA Monitoring Unit within ESD's Employment and Training Division conducts regular on-site monitoring reviews of local WDCs and selected subrecipients to determine compliance with WIA requirements. When Monitoring Unit staff conduct the WIA monitoring visits, they work in conjunction with the State WIA EO Coordinator in reviewing and identifying EO compliance (e.g., posters, facilities). EO issues and findings are included in the Monitoring Unit's exit interview. Copies of the WIA monitoring reports are forwarded to the State/ESD EO Officer if EO issues are identified. The State/ESD EO Officer reviews the reports and determines whether or not follow-up, technical assistance and/or an in-depth EO review is necessary. Each Workforce Development Area is reviewed by the WIA Monitoring Unit at least once a year. The in-depth EO monitoring review is conducted by the State/ESD EO Officer. (Attachments 7B-1 – 7B-8 and 7C-1 – 7C-3) These documents have been updated to ensure compliance with 29 CFR Part 37.

Each local EO Officer monitors the activities of his/her WDC and the activities of its contractors and WorkSource Operations to ensure EO compliance. Each local WDC develops procedures and monitoring tools for monitoring recipients' compliance with the Workforce Investment Act, final rules, federal regulations and state policies. The monitoring and oversight requirements for compliance reviews, together with monitoring instruments, are the methods and processes used to conduct and organize the review, as specified in 29 CFR Part 37. Policies and procedures regarding monitoring and oversight requirements for compliance reviews have been disseminated at the state and local level. See Attachment 7B-1.

The Washington State Employment Security Department is the largest one-stop partner and is also a major contractor through the WorkSource Operations Division. As such, it

is required to have its own ESD EO Officer and monitoring policies and procedures. The State EO Officer is a staff member of the Administrative Services Division. The State/ESD EO monitoring visits include, but are not limited to: a review of job orders, interviews with staff and customers, a review of EO reports, data analysis, and a check for accessibility and display of posters. Following the monitoring review, the State/ESD EO Officer conducts an exit meeting with the appropriate manager to discuss the findings. Each facility is reviewed at least once every three (3) years or more if warranted by factors such as discrimination complaints or deficient statistical reports. Offices are monitored by on-site reviews (technical assistance visits) or desk reviews. (Attachment 7A) Follow-up monitoring may be scheduled if deficiencies are found or corrective action is needed. The State/ESD EO Officer is responsible for developing a report of each visit. This report is forwarded to the Workforce Development Council EO Officer, the WIA Monitoring Unit and the WorkSource Operations Division. (Attachment 7B-7 and 7B-8)

Initially, the State EO Officer's focus was in the area of policy development, along with training and technical assistance, in the implementation of the EO regulations. The State EO Officer reviewed the EO monitoring reports completed by the WIA Monitoring Unit. These reviews indicated that the WDCs are in compliance with EO requirements. In-depth EO monitoring is now conducted periodically by the State/ESD EO Officer. See Attachment 7A-1.

The WorkSource Offices and/or affiliate sites that have a significant number of farmworkers in their area also conduct quarterly self-monitoring reviews of the services provided to Migrant and Seasonal Farmworkers. The self-monitoring reports are submitted to the State Monitor Advocate for review and analysis. The State Monitor Advocate is located within the Administrative Services Division of ESD. The Monitor Advocate shares and consults with the State/ESD EO Officer to ensure EO compliance.

The Unemployment Insurance Division contracts with a consultant to assess the quality of service provided in the UI Program. This review includes customer satisfaction, whether or not customers believe they received equitable treatment in processing claims, and language issues. The EO and Language Preference Reports are reviewed at least quarterly to identify and investigate any potential issues, make recommendations to division management to resolve these issues, and work with staff to implement and monitor corrective action. The EO Coordinator in the division provides a copy of these statistical reports to the State/ESD EO Officer on a quarterly basis. See Element 6. The State/ESD EO Officer conduct in-depth monitoring of TeleCenter and division staff.

Monitoring Elements

All three levels of recipient monitoring and oversight activities utilize the following models and guides. Recipients, as defined in 29 CFR Part 37.4, include state and local Workforce Investment Boards, One-Stop operators, service providers, vendors, and

subrecipients, as well as other types of individuals and entities. Recipients are monitored on their compliance regarding:

- **Assurances** (29 CFR 37.20 - 37.22)
Review training plans, contracts, agreements, and policies and procedures to ensure compliance.
- **EO Officer Designation** (29 CFR 37.23 - 37.28)
Ensure that EO Officers have been appointed, training is ongoing, assigned EO duties do not constitute a conflict of interest, EO duties are being carried out, and the name of the EO Officer is identified. This list is not inclusive.
- **Notice and Communication** (29 CFR 37.29 - 37.36)
Ensure that *EO is the Law* posters have been distributed and posted in prominent locations for public viewing and that recruitment, brochures, and other materials include the EO tagline language and a TDD number or provide an equally effective means of communication for individuals with disabilities. Additionally, any written materials (policies, notices, checklists, brochures, etc.) are reviewed to ensure the requirement has been met.
- **Data and Information Collection and Maintenance**
(29 CFR 37.37 - 37.41)
Ensure the collection and maintenance of records or data necessary to determine compliance: e.g., memos, EO record-keeping procedures, policy issuances, reports, complaint logs, etc.
- **Universal Access** (29 CFR 37.42)
In their recruitment efforts, recipients ensure that materials, brochures, and public service announcements are aimed at broadening the pool of those considered for employment or participation in programs and activities to include members of both sexes, various racial/ethnic groups, various age groups, and individuals with disabilities. They also ensure compliance on services provided to persons with limited English proficiency.
- **Complaint Processing Procedures** (29 CFR 37.70 - 37.89)
Ensure that the discrimination complaint procedures are adhered to and that complaint logs are maintained.
- **Development of a Monitoring System** (29 CFR 37.62 – 37.69)
Ensure that monitoring tools and program policies are developed to ensure their programs and activities are operating in a nondiscriminatory way.
- **Compliance with Section 504 of the Rehabilitation Act** (29 CFR 37.57 – 37.9)
Ensure compliance with the disability-related requirements of WIA Section 188 and Section 504 of the Rehabilitation Act.

U.S. Department of Labor Region VI 1999 Visit

In the fall of 1999 a team of Department of Labor Region VI Seattle-based staff began conducting readiness assessments of key Workforce Investment Act implementation activities. Region staff met with state-level WIA staff to discuss the status of state-level readiness, and then began conducting site visits of local Workforce Development Areas and One-Stop WorkSource Centers. The emphasis was on learning about key areas such as plan development and the establishment of councils, provision of services, designation of eligible service providers, and establishment of individual training accounts. On a number of visits, state staff accompanied the DOL staff. It gave the local area an opportunity to identify best practices, conduct a walk-through of WorkSource One-Stop Centers, and give insight into the challenges and opportunities of implementing the new law in a short period of time, including EO best practices.

EO Data

The ESD Labor Market and Economic Analysis Unit assists program staff in collecting and analyzing the EO data by race/ethnicity, sex, age and disability status for programs, employment activity, placements and terminations. This unit also collects and prepares statistical information for all state agencies in the preparation of their affirmative action plans. (Attachment 7D)

Sanctions

If deficiencies are identified, on-site technical assistance is provided and a corrective action plan may be necessary to ensure that the processes and procedures are in place to take appropriate steps in order to achieve voluntary compliance. The state and local EO Officers may continue to provide technical assistance in this process. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. See Element 9.

Documentation

Attachments for Element Seven

7A State/ESD Monitoring Guide

7A-1- State EO Monitoring Schedule

7B 1-Monitoring and Oversight Requirements for Compliance Reviews, Policy Number 3425 and Supplement A to Policy 3425

2-WIA Monitoring Questionnaire

3-Property Management/Procurement

4-Complaint and Grievance Checklist

5-Personnel, EEO and Non-Discrimination Checklist

6-Monitoring Instrument/File Review Checklist

7-Sample of Monitoring Report from a Local Area

8-Sample of EO Review from a Local Area

7C 1-Sample Monitoring Plans from Two Local Areas

2-Monitoring Review Schedule

3-Monitoring Flowchart

7D Table of Contents: Affirmative Action Information
Affirmative Action Information – Yakima MSA